
(2008) 02 P&H CK 0254
In the Punjab And Haryana At Chandigarh

Gurpreet Singh Bal

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 01-02-2008

Acts Referred:

Constitution of India, 1950 — Article 21
Passports Act, 1967 — Section 6
Penal Code, 1860 (IPC) — Section 34, 447, 511

Citation : (2008) 2 PLR 746 : (2008) 2 RCR(Civil) 553

Hon'ble Judges : Tej Pratap Singh Mann, J;M.M. Kumar, J

Bench : Division Bench

Judgement

T.P.S. Mann, J.—The petitioner has prayed for quashing of the observation/endorsement made on page Nos. 5 and 7 of his passport and also for quashing the order dated 15.06.2006 passed by respondent No. 2, whereby his request for issuance of a fresh passport for a period of one year without making any observation/endorsement regarding the pendency of criminal case was rejected.

2. The petitioner was earlier facing trial in FIR No. 187 dated 24.05.2004 relating to Police Station Nakodar under Sections 447/511/34 IPC which trial was pending in the Court of Sub Divisional Judicial Magistrate, Nakodar. During its pendency, the petitioner applied for issuance of a passport to him, the petitioner filed C.W.P. No. 9482 of 2005 before this Court. During the hearing of the same, a statement was made by respondent Nos. 1 and 2 therein that in case the petitioner furnished a copy of the order of the trial Court in which the criminal proceedings were pending, permitting him to go abroad, further action would be taken for issuance of passport to him. The petitioner then moved an application before the learned trial Court for the grant of permission which was allowed on 02.08.2005. The petitioner furnished the guarantee and surety which was accepted by the learned trial Court on 11.11.2005. In spite of the same, respondent No. 2 failed to issue a passport to him. The petitioner then filed a miscellaneous application in his earlier Writ petition. In response to the said application, a statement was made by learned Counsel representing Union of India before a Division Bench of

this Court on 10.01.2006 (Annexure P.7) that the petitioner shall be issued a passport to be valid for one year, within one week. When the petitioner finally received the passport (Annexure P.8), he was astonished to see that there was certain observations/endorsement made at Page Nos. 5 and 7 of the same that the criminal proceedings were pending against him in the Court of law and that the passport was valid only for a period of one year. This, according to the petitioner, was done by the respondents with ulterior purpose and malafide, intention so as to cause hindrance for him to get the visa and, thus depriving him from personal liberty as guaranteed under Article 21 of the Constitution, which included the right to travel abroad.

3. In their written statement, the respondent have stated that the remarks regarding the pendency of the criminal case as contained in the passport cannot be deleted in view of the Clauses (f)(g) and (i) of Section 6(2) of the Passport Act, as the passport authorities were competent to refuse to issue a passport if the proceedings in respect of an offence were pending before a criminal Court against the petitioner. However, the passport had been issued while complying with the directions of the Court vide which he was granted permission to travel abroad.

4. During the pendency of the writ petition, another development has taken place. The trial of the criminal case, which was pending against the petitioner, has since been concluded by learned Sub Divisional Judicial Magistrate, Nakodar, who vide judgment dated 01.10.2007 has acquitted the petitioner of the charges framed him. Certified copy of the judgment has already been taken on record as Mark "A". In view of the said development, this Court had adjourned the matter for today so as to enable learned Counsel for the respondents to seek instructions for deleting the obnoxious entry from the passport of the petitioner. Today, he has apprised the Court that let the petitioner apply afresh for the grant of passport to him and the same would work granted to him without making any mention about the aforesaid obnoxious entries.

5. Learned Counsel for the petitioner insisted that the respondent-authority shall delete the obnoxious entry from his passport regarding the criminal case which earlier stood registered against him, in which he was facing trial. Even if this Court has to issue such a direction, it would only result in the respondent-authorities scoring out the obnoxious entry from the passport of the petitioner by making an endorsement on the same, but for all times to come, the said entry would remain present on the passport. It is, therefore, in the interest of the petitioner to apply afresh for another passport. Even otherwise, the passport Annexure P.8 was only valid till 07.01.2007.

6. Accordingly, the present petition is disposed of with a direction to the petitioner to make a fresh application for the grant of passport to him and the said application be considered and a passport granted to the petitioner by the respondent-authorities within a period of three months from the date a copy of this order is received by them.